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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,612	03/29/2001	Akio Suto	Q60558	4173

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,612

Applicant(s)

SUTO, AKIO

Examiner

Etienne P LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US 2001/0034737 by Cane et al (hereafter Cane '737) in view of US Pat No. 5,933,593 issued to Arun et al (hereafter (Arun '593).

Regarding claims 1, 7 and 18, Cane '737 discloses:

a database memory [Fig 1, 106] for storing a database which is updated by the distributed data processing process [Fig 1, 100] performed by said client [Fig 1, 118]

a replication trigger generator for generating a replication trigger based on the updating of said database by the distributed data processing process performed by said client [paragraph 0031]

an updating information transfer unit for transferring updating information of said database to another one of the servers [Fig 1, 110] based on said replication trigger [paragraph 0031]

a database updating processor for updating said data base based on the updating information transferred from the other server [Fig 1, 110 and paragraph 0030]

Regarding claims 1 and 7, Cane '737 discloses the essential elements of the claimed invention except for a database memory for storing a database which is updated by the distributed data processing process performed by said clients. Arun '593 discloses a database memory for storing a database which is updated by the distributed data processing process

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performed by said clients. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cane '737 to include a database memory for storing a database which is updated by the distributed data processing process performed by said clients as taught by Arun '593 for the purpose of providing a means for clients to share data [col 1, lines 36-44]

Regarding claims 2 and 8, Cane '737 discloses a connection information changer for changing the connection information of the connection destination server if any of the servers suffers a fault [Fig 11 and paragraph 0038]

Regarding claims 3 and 10 and 12, Cane '737 discloses archived data [paragraph 0039]

Regarding claims 4 and 12, Cane '737 discloses generating a backup at a predetermined time [paragraph 0038].

Regarding claim 5 which states "a server for managing one of the clients which is of a production management system [...] and a server for managing one of the clients which is of a process control system" is drawn to intended use and is not given patentable weight. Claim 6, similarly is not given patentable weight for being dependent from a rejected claim.

Regarding claims 13-17, Official Notice is take that SQL, backup data in backup data memory, clients are different and transferring updating information to another server are well-known and expected in the art. The ordinarily skilled artisan would have been motivated to modify the combination of Cane '737 and Arun '593 per the above for the purpose of providing a method for the administration of a differential file backup system in a client-server system [abstract].

Response to Arguments

3. Applicant's arguments filed September 12, 2003 have been fully considered but they are not persuasive.

4. Applicant states on page 9, "By contrast, the present invention relates to a system in which a plurality of servers do not function completely differently for making a backup of the database, but each server makes a backup of other's database while each server updates its database on the process by the clients connected to the server. In an exemplary embodiment of the present invention, the data of the database in each server is independently updated based on the requests from the client connected to the server regarding the insertion, change, or deletion of data in the database. At the same time, the update of the database in one server generates a data replication trigger to update the database in another server. Thus, data location and data structure in each database are not necessarily the same even though the data in these databases are substantially the same." Examiner is not persuaded. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a plurality of servers do not function completely differently for making a backup of the database, but each server makes a backup of other's database while each server updates its database on the process by the clients connected to the server) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Applicant states on page 10, lines 9-11, "However, in Arun '593 there is no disclosure about transferring updating information of a database using a plurality of servers to transfer

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updating information to another server.” Examiner is not persuaded. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant states on page 10, lines 12-15, “Applicant submits that the applied references fail to teach or suggest all of the limitations of the claims of the present invention. Specifically, Crane ‘737 does not disclose a replication trigger generator for generating a replication trigger based on the updating of the database by the distributed data processing process performed by the clients as recited by claim 1.” Examiner is not persuaded. Crane ‘737 discloses the following in paragraph 31:

The server 102 receives the file data marked for archival backup storage from the client 118 and processes this data to determine if the file has been stored before. If the file has not been stored, the server 102 will store the entire file on the first memory device 106 and provide a copy of the entire file to the mirror server 110. The mirror server 110 also stores the entire file on the first memory device 114 associated therewith. Both of the servers 102 and 110 update the appropriate disk database 104 and 112 respectively.

One of ordinary skill in the art would understand the above disclosure by Crane ‘737 reads on the claimed “a replication trigger generator for generating a replication trigger based on the updating of the database by the distributed data processing process performed by the clients.”

Applicant states on page 11, “Additionally claim 1 is allowable over the prior art, because the prior art fails to teach or suggest a system where each server includes the recited elements. The Examiner’s reliance on paragraph 30 indicates the arbitrary designation of one main site and one mirror site. While transfers occur between the main site and the mirror site,

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the system of Crane '737 does not require each server to include the recited elements and respond to a replication trigger from client sites." Examiner is not persuaded. Crane '737 discloses the following in paragraph 31:

The server 102 receives the file data marked for archival backup storage from the client 118 and processes this data to determine if the file has been stored before. If the file has not been stored, the server 102 will store the entire file on the first memory device 106 and provide a copy of the entire file to the mirror server 110. The mirror server 110 also stores the entire file on the first memory device 114 associated therewith. Both of the servers 102 and 110 update the appropriate disk database 104 and 112 respectively.

One of ordinary skill in the art would understand the above disclosure by Crane '737 reads on the claimed "a replication trigger generator for generating a replication trigger based on the updating of the database by the distributed data processing process performed by the clients."

In the last paragraph on page 11, Applicant states "Finally, Applicant submits that Cane '737 and Arun '593 teach mutually different forms of database management that would teach away from their combination. The server-to-server comparison of Cane '737 would not be conducive to a multiple client environment, which controls database updates using a cache arrangement." Examiner is not persuaded. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a multiple client environment, which controls database updates using a cache arrangement) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant states on page 12, "Furthermore, Arun fails to make up for the deficiencies of Cane '737. Examiner is not persuaded. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually

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where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant states on page 12, "With further regard to claims 2 and 8, the examiner has not even asserted that the prior art teaches or suggests each of the limitations of these claims. Specifically, the examiner has not asserted that the prior art discloses the limitations of claim 2 of a connection information manager for managing connection information of a connection destination server to which the clients are connected; and the arrangement being such that if any of the servers suffers a fault, the connection information is changes by the connection information changer, and the distributed data processing process performed by the clients connected to the server which suffers the fault is continued under the management of another normal one of the servers to which the connection is changed." Examiner is not persuaded.

Cane '737 teaches the following in paragraph 38:

In the embodiment in which a mirror server is utilized hardware errors or other problems may occur between the two servers resulting in a loss of synchronization between the data stored thereon. FIG. 11 illustrates a method 1100 that synchronizes the data stored in each backup file system with the other. As illustrated in step 1102, each record in the disk database 104 is read by server 102. As illustrated in step 1104, each record in the file database 112 is read by the server 110. These two sets of records are sorted according to a predetermined key, as illustrated in step 1106. These two lists of records are compared, as illustrated in step 1108. If any files are missing from the main server, control is passed to step 1112, as illustrated in step 1110, and the mirror server is requested to transmit the file to the main server as illustrated in step 1112. If any files are missing from the mirror server, control is passed to step 1116, as illustrated in step 1114, and the main server is requested to transmit the file to the mirror server as illustrated in step 1116. In a preferred embodiment, this server to server resynchronization is performed on a regular periodic basis and may be performed prior to any of the operations described below.

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One of ordinary skill in the art would understand that the above disclosure by Cane '737 reads on the limitations of claim 2 of a connection information manager for managing connection information of a connection destination server to which the clients are connected; and the arrangement being such that if any of the servers suffers a fault, the connection information is changes by the connection information changer, and the distributed data processing process performed by the clients connected to the server which suffers the fault is continued under the management of another normal one of the servers to which the connection is changed.

Applicant states on page 12 "Likewise the examiner has not even asserted that the prior art discloses each of the limitations of claims 3, 4, 10 and 12." Examiner is not persuaded.

Applicant states on page 12 that the Office Action does not address the limitations of claims 3, 4, 10 and 12. Examiner is perplexed as supra Office Action clearly identifies the prior art relevant to the claimed invention. The limitations of the claimed invention are element by element, clearly identified element in supra office action. Furthermore, examiner notes Rule 37CFR 1.111(b) requires Applicant to "distinctly and specifically point out errors" in the examiner's action. Also, arguments or conclusions of Applicant cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326F.2d 769, 140 USPQ 230 (1964).

6. Applicant states on page 12, "Regarding claims 5 and 6 the examiner must evaluate and consider these claims. Claim 5 does not merely recite an intended use as the examiner contends. Rather, the recitations describe an interaction between the server and the client. Similarly, claim 6 describes an independent operation attributable to each server, providing a additional feature of the recited servers and is not a field of use." Examiner is not persuaded. In response to applicant's argument that "a server for managing one of the clients which is of a production

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management system,” a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Applicant states on page 13 “New claims 13-18 are added to further define the invention.” Examiner is not persuaded. Applicant makes no attempt to define, suggest or imply how new claims 13-18 distinguish over the prior art of record. In this regard, Applicant admits new claims 13-18 merely further define the present invention and do not distinguish over the prior art of record. Examiner is justified in assuming that the prior art of record reads on new claims 13-18.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620.

The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Etienne LeRoux

September 30, 2003


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100